

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

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<b>Application of</b>	:	
	:	
<b>LEGEND AIRLINES, INC.</b>	:	
	:	<b>DOCKET OST-00</b>
<b>for an exemption from Subparts K and S of</b>	:	
<b>14 C.F.R. part 93 pursuant to 49 U.S.C. §§</b>	:	
<b>41716, 41717 (LaGuardia and O'Hare)</b>	:	

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**APPLICATION OF LEGEND AIRLINES, INC.**

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Date: March 24, 2000

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**APPLICATION OF LEGEND AIRLINES, INC.**

Under the recently passed Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (the “Act”), Congress has directed the Secretary to grant slot exemptions to new entrants and limited incumbents at high density airports. Pursuant to 49 U.S.C. §§ 41716 and 41717, Legend Airlines<sup>1</sup> submits this application for 20 LaGuardia slot exemptions and 24 O’Hare slot exemptions so that it may operate 10 roundtrips to LaGuardia and 12 roundtrips to O’Hare.

Legend is a new entrant carrier based at Dallas Love Field. It will start operations with five roundtrips to LAX, four roundtrips to Washington Dulles and one roundtrip to Las Vegas at the end of this month. It proposes to begin service to LaGuardia at O’Hare Airport in September 2000.

As recognized by industry experts, GAO studies, and the Transportation Research Board’s report to Congress, business fares have been soaring. Legend’s service caters to

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<sup>1</sup> Common names are used for airlines.

the business traveler, offering premier class service at economy prices.

Legend requests slots to serve the following schedules:

## LGA

<b>DAL DEP TIME</b>	<b>DEP CITY</b>	<b>LGA ARRIVE TIME</b>	<b>LGA DEP TIME</b>	<b>ARR CITY</b>	<b>DAL ARR TIME</b>
06:15	DAL	10:30	07:40	DAL	10:15
07:30	DAL	11:45	08:40	DAL	11:15
10:10	DAL	14:25	10:55	DAL	13:30
12:00	DAL	16:15	12:10	DAL	14:45
12:40	DAL	16:55	14:50	DAL	17:25
13:40	DAL	17:55	16:40	DAL	19:15
14:40	DAL	18:55	17:25	DAL	20:00
16:10	DAL	20:25	18:25	DAL	21:00
18:25	DAL	22:40	19:25	DAL	22:00
19:40	DAL	23:55	20:55	DAL	23:30

## ORD

<b>DAL DEP TIME</b>	<b>DEP CITY</b>	<b>ORD ARR TIME</b>	<b>ORD DEP TIME</b>	<b>ARR CITY</b>	<b>DAL ARR TIME</b>
06:10	DAL	08:10	07:30	DAL	09:40
06:40	DAL	08:40	08:40	DAL	10:50
07:40	DAL	09:40	09:10	DAL	11:20
08:55	DAL	10:55	10:10	DAL	12:20
10:45	DAL	12:45	11:25	DAL	13:35
11:45	DAL	13:45	13:10	DAL	15:20
12:30	DAL	14:50	14:15	DAL	16:25
14:05	DAL	16:05	15:20	DAL	17:30
15:40	DAL	17:40	16:50	DAL	19:00

16:40	DAL	18:40	18:10	DAL	20:20
18:00	DAL	20:00	19:10	DAL	21:35
19:10	DAL	21:10	20:30	DAL	22:40

**New Entry is Needed in the Dallas Metroplex**

American Airlines dominates the Dallas market with over a 70 percent market share at DFW. American’s monopoly cannot be overstated. It has 967 O’Hare slots, 169 LaGuardia slots and 135 National slots. It currently boasts of 33 alliance partners and a fleet of approximately 641 aircraft. For the last several decades, American has repeatedly used its market power to eliminate new entrant competition at both DFW and Love Field.

The predatory behavior is perhaps best summarized by the Department of Justice in its

Complaint against American:

American dominates DFW and charges monopoly fares on many DFW routes. When small airlines try to compete against American on these routes, American typically responds by increasing its capacity and reducing its fares well beyond what makes business sense, except as a means of driving the new entrant out of the market. Once the new entrant is forced out, American promptly raises its fares and usually reduces its service. Through its predatory and monopolistic conduct, American deprives consumers of the benefits of competition in violation of the antitrust laws.

*United States of America v. AMR Corporation*, Civil Action No. 99-1180-JTM, May 13, 1999.

American has waged a multi-million dollar campaign in multiple courts and proceedings and through the media to destroy Legend before it ever began operating at Love Field. American and its partners, through their relentless attacks

were able to delay Legend’s start up for three years. Fortunately for Dallas consumers, Legend will operate, but American’s anti-competitive tactics have not ceased. In the latest turn of events, American has decided to duplicate Legend’s premier class service for economy prices at and only at Love Field. To “compete” with Legend at Love Field, American will expend millions of dollars. The only reason for this excessive and targeted response to Legend’s service is to drive Legend from the market.

As if that was not enough, American has announced that it will fly Legend’s routes.<sup>2</sup> American is going to add Love Field service at DAL to LAX and ORD without decreasing any DFW flights to those same destinations. As a result, American’s operations will be as follows:

<u>Los Angeles</u>	<u>Chicago</u>
DAL-LAX: 4	DAL-ORD: 5
DFW-LAX: <u>18</u>	DFW-ORD: 23
Total: 22	DFW-MDW: <u>5</u>
	Total: 33

Given American’s slot advantage and predatory behavior toward Legend, it is essential that the Department provide Legend with the LaGuardia and O’Hare slots necessary for Legend to compete and ultimately, survive. By granting Legend 24 slots at ORD and 20 at LGA, Legend will be able to bring competitive fares and service to Dallas passengers at the nation’s most important business markets.

### **Other Large Carrier Requests**

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<sup>2</sup> Legend had publicly expressed interest in flying to O’Hare. There is no doubt that American’s DAL-ORD operations were sent as a signal to Legend not to enter that market.

In light of recent applications by incumbent carriers for slots at LaGuardia and National, Legend urges the Department to make granting slots to new entrants a priority. While the Act limits new entrant slots so they do not exceed 20 at LaGuardia and 30 at O'Hare, it contains no limitations on the number of slots the regional jet operations that can be granted. As a result, several large carriers are actively attempting to increase their dominance at slot controlled airports and smother all airport operations. Already, Continental Express<sup>3</sup> has applied for 146 LaGuardia slots, Delta has announced it will be seeking slots to serve 31 nonstop routes and it will not be long before the rest of the large carriers follow suit. The Department must take care that this legislation does not have the unintended effect of doing more harm to competition than good.

Actions must be taken to ensure that new entrants can enter these markets. Large carriers already control 96 percent of the LaGuardia slots. New entrants account for a mere four percent of that market. If Continental and Delta obtained the requested slots, the large carriers' concentration would grow stronger. Moreover, every gate, ticket counter, and other airport facility will be under their control. The Department needs to take steps to ensure that new entry is not blocked by large carriers flooding the Department with duplicative requests to add regional jets. The Department should approve and issue slot exemptions to new entrants before approvals are provided to those already dominating the airport.

Therefore, Legend requests that the Department seize the opportunity to increase

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<sup>3</sup> Continental already dominates Newark.

competition by granting it 20 slots at LaGuardia and 24 slots at O'Hare.

Respectfully submitted,

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Date: March 24, 2000

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Application of Legend Airlines, Inc., was served on March 24, 2000 by postage-paid first-class mail to each of the persons named on the attached service list.

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